



**TOWN OF TEWKSBURY  
CONSERVATION COMMISSION  
999 Whipple Road  
Tewksbury, MA 01876**

Anthony Ippolito, Chairman  
Carolina Linder, Vice-Chair  
Steve Deackoff, Clerk  
Dennis Sheehan  
Jonathan Parker

**MEETING MINUTES  
November 5, 2014**

The meeting was called to order at 7:02 p.m. by Anthony Ippolito, Chairman, at the Pike House (temporary town hall). Present was Carolina Linder, Steve Deackoff, Dennis Sheehan, and Jonathan Parker. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary.

**Approval of Meeting Minutes – October 15, 2014**

**MOTION: Mr. Parker made the motion to approve the October 15, 2014 meeting minutes as presented; seconded by Ms. Linder and the motion carried 5-0.**

**A) Notice of Intent, Peter Civitarese, 51 Andrea Drive & Rogers Street, Maps 20, Lot 82 & 19, DEP #305-972**

Present was Peter and Kim Civitarese of 51 Andrea Drive. Mr. Civitarese explained that they submitted the plans to the Commission two weeks ago. At that time, Mr. Boyd stated that he would like to conduct a site visit. Mr. Civitarese noted that he has nothing new to report.

Mr. Boyd explained that he visited the site and noted that the area currently naturally slopes down towards the wetlands. Mr. Boyd expressed concerns with ponding with the grading that would be done and how the water currently flows towards the wetlands. Mr. Boyd feels additional work may be necessary to address the drainage.

Ms. Linder explained that she shares the same concerns as Mr. Boyd. Ms. Linder noted that there are slopes on both sides and it was stated that the play area could not be put in a certain area due to the slope as a retaining wall would be needed. Ms. Linder asked if the difference in the two slopes is known. Mr. Civitarese explained that the slope would be less than 2 feet. Ms. Linder asked why the play area cannot be put where the pool is. Mr. Civitarese explained that for cosmetic reasons they do not want to do this and noted that the septic tank is also in this area.

Mr. Deackoff suggested a berm be put in place where the tree line is to be planted so the water will not pond. Mr. Civitarese explained that it was suggested by the Commission that bushes be planted; however, they do not feel this is needed. Mr. Civitarese explained that they have lived in the home for 7 years and the current play area has been there for 3 years, and there have been no drainage problems. Mr. Civitarese explained that he hired Stephen Ericksen and he has stated that no damage has been done from the existing court and he does not expect what is being proposed to have any effect on the wetlands.

Ms. Linder noted that the work is still within in the 50 foot buffer zone and there are concerns that the land already slopes this way. Ms. Linder would prefer to see the bushes planted along the 25 foot no disturb. Ms. Linder suggested the existing play area be removed prior to installing the new play area. Mr. Civitarese confirmed that the existing play area will be removed prior to installing the new play area and explained that the shed also needs to be moved and the land where the shed will go needs to be leveled prior to moving it.

Mr. Ippolito noted that he visited the site with Mr. Boyd and he does not see a problem with the way it is pitched.

Mr. Ippolito opened the hearing to the public.

Arthur Salani of 41 Andrea Drive came forward and noted that he provided the Commission with a letter last week highlighting his concerns from the October 15, 2014 meeting. Mr. Salani explained that he has a preexisting issue with the water as a result of the way the back of this lot currently drains and because of the change in conditions in the area. Mr. Salani noted that when they moved into their home in 2000, the area was grass up to way past where it is now. Mr. Salani noted that the court size has been reduced to 15 x 50; which satisfies the minimum requirement to be outside of the 25 foot buffer, but it does not satisfy many of the issues that he has raised. Mr. Salani explained that the original proposal was rejected as it was inside the 25 foot buffer and there is a substantial sloping coming off the back of the pool. Mr. Salani explained that in order to put in the basketball court, some type of excavation would need to be done. This would require a retaining wall which has not been made a part of the proposal. Mr. Salani noted that recently we received a heavy rain and this area flooded out. Mr. Salani expressed concerns that this will make the water worse and create flooding problems as it is changing the way the drainage was intended to go. Mr. Salani provided images from the heavy rains and explained that he feels a retaining wall will be needed no matter what as there will be sloping. Mr. Salani expressed concerns with noise, lighting, etc. as it was a problem before and now the play area will only be 17 feet from his property line. Mr. Salani noted that it is likely that the area is going to be turned into a hockey play area. Mr. Salani expressed concerns with heavy equipment being brought in and how the property will be accessed. Mr. Salani feels there are details missing from the plan.

William Flynn of 31 Andrea Drive came forward and noted that he has no issues with the play area as proposed and he hopes that it is approved.

Ms. Linder noted that the applicant stated that they will not be grading and Mr. Salani has stated grading needs to be done. Mr. Civitarese explained that he has consulted the services of the required professionals to review the area, and it was determined that a retaining wall was not needed. Ms. Linder asked how the equipment will access the house. Mr. Civitarese explained that he currently receives wood deliveries in this area and none of the professionals he has consulted with have expressed concerns with access.

Mr. Boyd explained that he is concerned with the natural slope being taken out and replaced with pavement as it is the Commissions responsibility to ensure that the flow of water into the wetlands is not increased. Mr. Boyd suggested an engineer review the site and proposal. Mr. Civitarese explained that Steve Ericksen has done this. Mr. Boyd explained that Mr. Ericksen is a Wetland Scientist and he reviewed the wetland lines. Mr. Civitarese explained that the area does not currently pool and there will be less than a 2 foot slope.

Ms. Linder feels that plantings should be done if the project is to be done as it is being proposed and Mr. Civitarese agreed to this.

**MOTION:** Mr. Deackoff made the motion to close the public hearing portion; seconded by Mr. Sheehan and the motion carried 5-0.

**MOTION:** Mr. Deackoff made the motion to approve Notice of Intent, Peter Civitarese, 51 Andrea Drive & Rogers Street, Maps 20, Lot 82 & 19, the existing play area and asphalt shall be removed prior to the new play area being installed, the area shall be reseeded with a wetland mix in an attempt to restore it back to its original condition, reference shall be made to the plan from Cuoco & Cormier depicting a 15 x 50 foot play area outside of the 25 foot no disturb, the shed shall be moved outside of the 25 foot no disturb, a row of plantings shall be planted along the 25 foot buffer to help mitigate any flow from the play area as well as to delineate the area; seconded by Mr. Sheehan and the motion carried 5-0.

**B) Notice of Intent, Allen Boutiette, Allen Boutiette, 30 Frasier Lane, DEP #**

Mr. Boyd noted that this matter will be continued to the next meeting on November 19, 2014 as additional information is required.

**MOTION:** Mr. Ippolito made the motion to continue Notice of Intent, Allen Boutiette, Allen Boutiette, 40 Frasier Lane, DEP #, to November 19, 2014 at 7:02 p.m.; seconded by Mr. Sheehan and the motion carried 5-0.

**C) Notice of Intent, Joseph Gillis, 20 Frasier Lane, DEP #**

Mr. Boyd noted that this matter will also be continued to the next meeting on November 19, 2014 as additional information is required.

**MOTION:** Mr. Ippolito made the motion to continue Notice of Intent, Allen Boutiette, Allen Boutiette, 40 Frasier Lane, DEP # to November 19, 2014 at 7:05 p.m.; seconded by Mr. Sheehan and the motion carried 5-0.

**D) Notice of Intent, Patrick McCarthy, 120 Poplar Street, Map 97, Lot 98, DEP #305-973**

Present was Patrick McCarthy and Scott Anderson from Surfside Swimming Pools. Mr. Anderson explained that they are seeking approval to install a 16 x 33, in ground, kidney shaped swimming pool at 120 Poplar Street.

Mr. Boyd explained that his only concern is that the soil that is excavated for the pool as he would prefer to see it removed from the site and Mr. McCarthy has asked whether he is allowed to use it in another area of the yard.

Mr. McCarthy explained that he originally wanted to extend the yard out to the back a little using the material that is excavated from the pool; however, they will have it removed from the site if the Commission prefers.

Ms. Linder asked if the option of moving the pool closer to the home has been considered to allow for a larger back yard. Mr. Anderson explained that typically most communities require the pool be put in the rear of the property rather than the side.

Ms. Linder asked if a fence will be installed. Mr. McCarthy explained that he has spoken to the neighbors and they would prefer no fence. As a result, they will just be fencing in the immediate pool area. Ms. Linder suggested the 25 foot buffer be marked out. Mr. Anderson noted that there are currently hay bales along the 25 foot buffer. Ms. Linder suggested the area be permanently marked out for when the project is completed.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

**MOTION:** Mr. Ippolito made the motion to close the public hearing portion; seconded by Mr. Sheehan and the motion carried 5-0.

**MOTION:** Mr. Deackoff made the motion to approve Notice of Intent, Patrick McCarthy, 120 Poplar Street, Map 97, Lot 98, DEP #305-973, standard order of conditions, all excess excavated materials shall be removed from the site; seconded by Mr. Sheehan and the motion carried 5-0.

**E) Request for Determination of Applicability, James Reinold, 19 Heather Row, Map 92, Lot 3**

Present was James Reinold. Mr. Reinold explained that he would like to hook up to town sewer and the boundary on one side of his home is a small drainage brook; which he is within the boundaries of. Mr. Reinold explained that access will be made to the left side from the rear of the home. Mr. Reinold noted that at the closest point the excavation will be 25 feet from the brook. The existing septic tank and pump chamber that are approximately 25 feet from the drainage brook and will be crushed.

Mr. Boyd noted that he feels this will be an improvement by eliminating the septic tank and he would like to monitor the project as it moves along to ensure the soil is kept away from the brook.

Mr. Deackoff asked if the septic will be crushed and Mr. Reinold confirmed this.

Ms. Ippolito opened the hearing to the public and no one came forward.

**MOTION: Mr. Sheehan made the motion to close the public hearing portion; seconded by Mr. Deackoff and the motion carried 5-0.**

**MOTION: Mr. Deackoff made the motion for a negative determination James Reinold, 19 Heather Row, Map 92, Lot 3; seconded by Ms. Linder and the motion carried 5-0.**

**F) Request for Certificate of Compliance, 1360 Main Street, DEP #305-864**

Present was Attorney Ryan Sullivan on behalf of Fahey Place Inc. Attorney Sullivan explained that there is an outstanding Order of Conditions on the property from 2008. The applicant has provided the as-built plan as well as a letter from the Engineer, Doug Leeds. They are requesting a Certificate of Compliance be issued with the noted exceptions from the as-built plan.

Mr. Boyd asked if they are also requesting a release of bond and Attorney Sullivan confirmed this. Mr. Boyd noted that he believes there is a \$10,000 bond in place.

**MOTION: Mr. Deackoff made the motion to issue a Certificate of Compliance, 1360 Main Street, DEP #305-864, recorded with Middlesex North Registry of Deeds Book 1927, Page 91, the performance bond in place shall be released; seconded by Ms. Linder and the motion carried 5-0.**

**G) Enforcement Order, Eric & Sarah LeShay, 645 Rogers Street, Map 8, Lot 1**

Present was Dick Cuoco of Woodland Design, Robert Fowler, and Eric LeShay. Mr. Cuoco provided the members with a plan of the site and explained that an addition is currently being constructed at 645 Rogers Street. Mr. Boyd visited the site during this time and felt that they were within 100 feet of a resource area. Mr. Cuoco explained that there is a ditch that runs along the easterly side of the property that connects a wetland on the south side of Rogers Street with a wetland to the rear of property. They marked out the buffer zones and the distance from the nearest improvement to the resource area is approximately 70 feet. All of the area to the east of the driveway will remain untouched. Mr. Cuoco noted that there is also an existing stone wall along the east side of the property and that a silt fence was installed after Mr. Boyd's visit.

Mr. Boyd requested an explanation of the work that is being proposed. Mr. Cuoco explained that an addition being constructed and the gravel driveway that goes around the house will be paved. Mr. Cuoco explained that there was previously a driveway to the right of the existing dwelling; the gravel driveway that goes around the rear of the property has always been there.

Mr. Boyd explained that when an applicant applies for a building permit, a "green sheet" is distributed through the town departments that are required to review the matter. Mr. Boyd explained that there was a sloped mound up against the existing dwelling. As a result he had stated on the sheet that if the work came close to channel, he was to be notified and he was not.

Mr. Deackoff asked if erosion controls have been put in place and Mr. Cuoco confirmed this.

Discussion took place on whether a Notice of Intent or Request for Determination of Applicability should be filed. Mr. Deackoff asked if a Request for Determination was requested when the "green sheet" was distributed. Mr. Boyd explained that because they are over the 100 feet, it was not requested. As a result, Mr. Boyd stated that if any of the work came within 100 feet he was to be notified.

**MOTION: Mr. Deackoff made the motion to lift the Enforcement Order for Eric & Sarah LeShay, 645 Rogers Street, Map 8, Lot 1, the erosion controls shall remain in place, a Request for Determination of Applicability shall be filed for the driveway; seconded by Mr. Sheehan and the motion carried 5-0.**

**H) Notice of Intent, Donald Smith, 1091 Main Street, Map 61, Lot 13, DEP #**

Mr. Boyd noted that this matter will be continued to the next meeting on November, 19, 2014.

**MOTION: Mr. Ippolito made the motion to continue Notice of Intent, Donald Smith, 1091 Main Street, Map 61, Lot 13, DEP # to November 19, 2014; seconded by Mr. Sheehan and the motion carried 5-0.**

**New Business**

Mr. Ippolito noted that he and Mr. Boyd will be attending a meeting for the gas line at North Reading High School on November 12, 2014 with Gene Benson. The purpose of the meeting is to keep the Town of Tewksbury updated on the proposals that are coming forward.

**Old Business**

There was no old business.

**Administrator's Report**

There was no Administrator's Report.

**Adjourn.**

**MOTION: Mr. Deackoff made the motion to adjourn; seconded by Mr. Sheehan and the motion carried 5-0.**

*Approved: 11/5/14*

*List of documents for 11/5/14 Agenda*  
*Documents can be located at the Community Development Office*

Approval of Meeting Minutes-October 15, 2014

- A. 7:02 P.M        Notice of Intent, Peter Civitarese, 51 Andrea Drive & Rogers Street, Maps 20 Lots 82 & 19, DEP # 305-972
- *Plot of land dated March 29, 2013*
  - *Worksheet sketch dated July 23, 2014*
  - *Notice of Intent dated September 2014*
- B. 7:05 P.M        Notice of Intent, Allen Boutiette, Allen Boutiette, 30 Frasier Lane, DEP #
- *Notice of Intent Form WPA 3*
- C. 7:07 P.M        Notice of Intent, Joseph Gillis, 20 Frasier Lane, DEP #
- *Notice of Intent Form WPA 3*
- D. 7:09 P.M        Notice of Intent, Patrick McCarthy, 120 Poplar Street, Map 97 Lot 98, DEP #305-973
- *Notice of Intent Form WPA 3*
  - *Plot Plan dated December 14, 2010*
- E. 7:11 P.M        Request for Determination of Applicability, James Reinold, 19 Heather Row, Map 92 Lot 3
- *Request for Determination Form WPA 1*
- F. 7:14 P.M        Request for Certificate of Compliance, 1360 Main Street, DEP # 305-864
- *Certificate of Compliance Form 8A*
- G. 7:16 P.M        Notice of Intent, Eric & Sarah LeShay, 645 Rogers Street, Map 8 Lot 1, DEP
- *Notice of Intent Form WPA 3*
  - *Proposed Plot Plan dated Nov 1, 2014*
  - *Enforcement Order dated 10/21/14*
- H. 7:18              Notice of Intent, Donald Smith, 1091 Main Street, Map 61 Lot 13, Mass DEP #
- *Notice of Intent Form WPA 3*
  - *Plan of Land-1091 Main Street Plot Plan dated November 2013*